

 NORFOLK Department of Police		Operational General Order – 640: K9 Patrol and Explosive Detector Dogs	
		Office of Preparation: Strategic Management Division (rck)	
		CALEA:	41.1.4, 84.1.4
		VLEPSC:	OPR.01.09a
LEGAL REVIEW DATE:	June 4, 2015	PRESCRIBED DATE:	6/9/15
City Attorney:	Wayne Lenz	City Manager/Director of Public Safety:	Mark D...
APPROVED BY THE AUTHORITY OF THE CHIEF OF POLICE:		[Signature]	

Purpose:

The purpose of this order is to establish departmental procedures and guidelines directing the use of K-9 dogs and for the deployment and utilization of explosive detector dogs.

Policy: (VLEPSC OPR.01.09a)

It is the policy of the Norfolk Department of Police to use trained K-9 dogs, K-9 officers, and Explosive/Weapons (E/W) Detector Teams for the prevention and detection of crime, the apprehension of felony suspects, armed suspects, misdemeanor suspects offering aggressive or aggravated resistance, tracking, building searches, detection of possible explosive devices/weapons, and for the protection of officers and citizens from injury or death.

Supersedes:

1. G.O. OPR-640 K9 Patrol and Explosive Detector Dogs , dated May 8, 2012
2. Any previously issued directive conflicting with this order

Order Contents:

- I. K-9 Dog Use and Restrictions
- II. K-9 Officer On Scene Responsibilities
- III. Conditions for use of Explosive/Weapon Detector Team
- IV. Explosive/Weapon Detector K-9 Officer Responsibilities
- V. Explosive/Weapon Detector Team Availability
- VI. Explosive Training Aids
- VII. Reporting and Review of Dog Bite Incidents

I. K-9 Dog Use and Restrictions (CALEA 41.1.4 a)

Use of a K9 dog to apprehend or otherwise physically intervene with a person is a use of force governed by this Order, and by General Order OPR-120: Use of Force. Law enforcement officers are permitted to use force for the following reasons, and only for these reasons:

- Self Defense
- Defense of others
- To prevent the commission of a crime
- To prevent an escape
- To effect an arrest

When a K-9 officer decides to use force in the course of their duties, the action must meet the "Objectively Reasonable Standard" established by the Supreme Court in their ruling on *Graham v. Connor*, 490 US. 386 (1989). The use of any force by department personnel that exceeds that which is "objectively reasonable" will be considered excessive and will not be tolerated.

When a K-9 officer arrives on a scene where other officers are having difficulty controlling the situation, the K-9 officer will not remove the K-9 dog from the police vehicle if it appears that the officers collectively are able to control the situation. The K-9 officer will not intervene with the K-9 unless it appears necessary to prevent harm or injury to the other officers. In such situations any use of a dog must be specifically justified by the K-9 officer. It is essential that the handler obtain all necessary and relevant information before determining the appropriate use of the dog. The K9 officer will use that level of force that policy, training, and their experience, prescribes to be objectively reasonable. Current physical condition, size, and ability of the K9 officer, as well as the physical condition, size, and ability of the suspect shall all be considered when determining objective reasonableness of the range of force used to de-escalate the situation and bring it under control in a safe and prudent manner.

The K-9 officer must use discretion and exercise sound judgment when deploying a K-9 dog to apprehend a subject. In all cases, the officer must be prepared to justify any actions taken, and will be subject to disciplinary action for violations of this order and OPR 120: Use of Force, for any unreasonable force. K-9 supervisors may be held accountable and subject to discipline for the actions of K-9 officers under their supervision who fail to comply with this order. K-9 officers will report all deployments of their K-9 via the K-9 Utilization Report (PD 922).

Only that degree of force necessary to apprehend a suspect may be used and the K-9 dog must be called out or otherwise restrained as soon as the suspect is in custody or is not resisting. K-9 handlers must give the appropriate warnings three times before deploying their dogs unless doing so would possibly endanger the handler or other officers. That warning will be "Norfolk Police K-9. Sound off or I will release my dog and you will be

bit". Where there is a reasonable belief that a suspect speaks a language other than English, the K-9 Officer, another officer, or other individual fluent in that language should give the K-9 warnings in the appropriate language before deploying the K-9. The K-9 dog may be used in situations as set forth below:

- A. To effect the arrest of a person the K-9 officer has probable cause to believe has committed, is committing, or is attempting to commit a serious or violent felony; and
 - 1. It reasonably appears that the use of other means of force would be likely to result in more serious injury to officers, the suspect or other persons; or
 - 2. It reasonably appears that unless a K-9 dog is used, the suspect may avoid or evade apprehension by fleeing from the scene or police officers.
- B. To search premises off leash, which appear to have been broken into refer to G.O. OPR-220: Burglary in Progress. K-9 dog limitations on this use are:
 - 1. K-9 dogs may not be used "off leash" to search premises in cases of residential break-ins unless it can be determined that persons living there are not at home.
 - 2. K-9 dogs may not be used to search buildings "off leash" where there is reason to believe that children, or mentally incompetent person(s) or physically incapacitated person(s) may be inside.
 - 3. K-9 dogs may not be used to search buildings "off leash" in situations where there might be a hazard to the dog, such as open elevator shafts, broken glass, dangerous chemicals, etc.
 - 4. K-9 dogs may not be used off leash to search vacant or unoccupied dwellings for officer safety purposes.
- C. The K-9 dog is considered an Intermediate Use of Force and may be used to affect the arrest of one who is assaulting or attempting to assault the K-9 officer, K-9 dog, other officers or other persons. The K-9 officer must reasonably believe that this assault is an imminent threat of physical injury to the person and be able to articulate the facts regarding the suspects aggressive or aggravated resistance level. The K-9 dog may not be used for either active resistance or passive resistance to detention or arrest.
- D. To apprehend a fleeing suspect who has assaulted and injured the K-9 officer, other officers or other persons, immediately after the assault, and when no other means of apprehension is possible.

- E. In situations where a subject is armed or the officer has reasonable suspicion to believe the subject is armed and poses a potential threat to officers or the public.
- F. Misdemeanors: When requested to respond, K-9 handlers will evaluate the severity of the offense before determining if the use of the dog is appropriate to assist in locating a suspect who has committed a misdemeanor, taking into account *Graham V. Connor*. When there is no immediate danger to the K-9 handler, other police officers, or citizens, the K-9 dog will not be utilized.
- G. Before any deployment, the handler must consider, at a minimum, the following:
 - 1. The severity of the crime
 - 2. Whether the suspect poses an immediate threat to the safety of officers or others.
 - 3. Whether the suspect is offering aggressive or aggravated resistance or using physical force that is beyond passive or active resistance in an effort to evade arrest.

II. Conflicting Orders

- A. If a K-9 officer is ordered by a supervisor to perform an assignment in conflict with prescribed training techniques and/or rules, regulations and directives, the K-9 officer will immediately bring this conflict to the attention of the supervisor issuing the order. If the supervisor issuing the order does not alter or rescind the conflicting order, the order will be obeyed. Under such circumstances, the responsibility for the conflict will be upon the supervisor issuing the order. For clarification see Police Officer's Manual, Article 2, Rules of Duty, Section 5, Conflicting or Illegal Order. The K-9 street supervisor will be notified of the conflict at the earliest convenient time.

III. Conditions for use of an Explosive/Weapons Detector Team (CALEA 41.1.4 a)

An explosive/weapon (E/W) detector team is composed of an explosive detector dog and a trained E/W K-9 officer, used as required for the following:

- A. At the request of a street supervisor at the scene of a bomb threat;
- B. An incident scene where a weapon has been discarded or lost by either a criminal suspect or police officer and a concern for public safety demanding the recovery of the weapon is present;
- C. At the request of an investigative unit supervisor to assist in the location and recovery of explosive or firearm evidence;

- D. To conduct advance sweeps in connection with dignitary protection;
- E. At the request of a supervisor from another local police/sheriffs or a federal law enforcement agency with the permission of the Officer-In-Charge, (OIC) K-9 or the Field Commander;
- F. At the advance request of the Norfolk City School Board Security Director or designee;
- G. At the request of a principal or designee of any school in the City of Norfolk, public or private, when there is a legitimate reason to believe weapons or explosives are present on school property.

IV. Explosive/Weapons Detector K-9 Officer On-scene Responsibility.

- A. When the E/W K-9 officer arrives on scene, they will assess the search situation, including all safety factors and make recommendations for adjustments in personnel as deemed necessary to ensure safety for all. The E/W K-9 officer will determine if a search is safe and reasonable to conduct and will report their findings to the on scene supervisor or senior officer in charge.
- B. If the E/W K-9 officer determines that the use of a dog is not safe and there is reason to believe an obvious explosive threat exists, an Explosive Ordinance Disposal technician (EOD technician) or formally trained and qualified police officer will conduct the search.
- C. If during a search for explosive materials or devices the E/W K-9 officer locates a suspicious item, or the explosive detector dog gives an indication of an alert on a location or item, the location or item will be marked, and the search terminated until the area or item is rendered safe by an EOD technician. Once the area or item is considered safe; the E/W detector team will continue the search of the location for additional potentially explosive items or materials.
- D. The E/W K-9 officer will at no time attempt to make safe any item or area considered suspicious.
- E. Upon completion of the search assignment, the E/W K-9 officer will complete a Norfolk Department of Police K-9 Utilization Form.

V. E/W Detector Team Availability

When not on duty, E/W detector teams may be available for recall. To recall an E/W team, a street supervisor will contact an on-duty K-9 supervisor or senior K-9 officer, who will contact the on-call E/W detector team. If no E/W detector team is available,

then the Virginia State Police should be contacted in accordance with G.O. OPR-650: Bomb Threats.

VI. Explosive Training Aids (CALEA 84.1.4)

- A. When not in use, explosive training aids will be stored in the K-9 Unit's explosive storage facility.
- B. Only the OIC K-9, K-9 training sergeant, and K-9 training officer will have access to the explosive storage facility.
- C. A monthly inventory will be conducted and documented by the K-9 training sergeant and K-9 training officer on all explosive training aids.
- D. All explosive training aids issued to the K-9 Unit will be utilized for training by the K-9 Unit training sergeant or K-9 Unit training officer. If explosive training aids become contaminated and must be replaced, those training aids will be delivered to the Norfolk Police Bomb Squad, or other authorized disposal agency. Documentation of disposal will be maintained at the K-9 Unit.

VII. Reporting and Review of K9 Dog Use of Force Incidents

- A. K-9 officers will submit a use of force report via the Electronic Reporting System (ERS) for every use of force resulting from the use of a K-9 dog as required by OPR 120: Use of Force and OPR-140: Special Incident Report (SI) before the end of their shift. In addition to routine information, the officer will include in the narrative the name of the K-9 dog, the specific section of this order which authorized the use of the dog, and facts explaining how the use of the dog was justified. All reports will be completed and forwarded to the K-9 officer's immediate supervisor and the OIC of K-9 for review. The K-9 officer must notify an on duty K-9 supervisor of the K-9 use of force and the K-9 supervisor must respond to the scene, in the absence of an on duty K-9 supervisor a street supervisor must respond to the scene. The Field Commander also must be notified of the incident as soon as practicable. The officer also must specify which supervisor and Field Commander were notified and if they responded in their ERS use of force report. The K-9 officer will contact a patrol supervisor or forensic unit to take digital photographs of the injuries sustained, if possible before and after medical treatment to accurately reflect any injuries sustained. The original digital photographs will be included as attachments in the (ERS) report. These evidentiary photographs may not be disseminated outside the (ERS) reporting process. No photographs will be taken with a personal digital device.
- B. K-9 immediate supervisors and the OIC of K-9 will be responsible for reviewing all Electronic Reporting System (ERS) Use of Force Reports and K-9 Utilization reports (PD 922) submitted by K-9 officers involving use of force incidents. After

reviewing, and if necessary, discussion with the reporting officer and/or involved parties, the K-9 officer's immediate supervisor and OIC K-9 will indicate whether the use of force was in accordance with G.O. OPR-120: Use of Force and any other departmental rules and regulations, and sign and date the report. Any additional information or reasons for disapproval of an officer's conduct deemed relevant by the K-9 immediate supervisor and the OIC of K-9 will be described in a separate attached memorandum. A K-9 officer's immediate supervisor and the OIC of K-9 will be directly responsible for evaluating the justification for the intermediate use of force regarding a K-9 dog and for recommending or taking any necessary corrective action.

- C. The Assistant Chief, Field Operations Bureau will review all ERS Use of Force Reports and supplementary supervisory memoranda related to the use of force involving K-9 dogs and bring to the immediate attention to the Chief of Police any incidents which may require further review, investigation or corrective actions. The Assistant Chief, Field Operations Bureau will be directly responsible for evaluating all Use of Force Reports involving the use of K-9 dogs and for taking or recommending necessary corrective action to the Chief of Police.

Definitions:

Passive Resistance: a subject physically refuses to comply or respond without attempting to physically defeat the officer's actions but forcing the officer to employ physical maneuvers to establish control.

Active Resistance: Physically evasive movements to defeat an officer's attempt to control, such as, bracing, tensing, attempts to push/pull away or not allowing the officer to get close. This can include serious verbal threats implying harm if the officer attempts restraint procedures. The officer will consider the suspect's ability and intent to resist when utilizing objectively reasonable force to control the suspect.

Aggressive Resistance: A subject makes overt hostile attacking movements which may cause injury but are not likely to cause death or great bodily harm to the officer or others.

Aggravated Resistance: A subject makes overt, hostile attacking movements with or without a weapon with the intent and apparent ability to cause death or great bodily harm to the officer or others.

Intermediate Force: The level of force necessary to compel compliance from a subject displaying Aggressive Resistance. Intermediate force is not intended nor likely to result in death.

Objectively Reasonable Force: An objective standard of force based on the perception of a reasonable officer, and based on the totality of the circumstances presented at the time of the incident

Serious Physical Injury: A physical injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the function of any bodily member or organ.

Related Documents:

1. G.O. OPR-120: Use of Force
2. G.O. OPR-140: Special Incident Reports (SI)
3. G.O. OPR-220: Burglary In Progress
4. G.O. OPR-630: Hostage and Barricade Resolution
5. G.O. OPR-650: Bomb Threats